

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TRUSTEES OF BOSTON UNIVERSITY,)
Plaintiff,

v.

EVERLIGHT ELECTRONICS CO., LTD.,)
ET AL.,)
Defendants.

TRUSTEES OF BOSTON UNIVERSITY,)
Plaintiff,

v.

EPISTAR CORPORATION, ET AL.,)
Defendants.

TRUSTEES OF BOSTON UNIVERSITY,)
Plaintiff,

v.

LITE-ON INC., ET AL.,)
Defendants.

TRUSTEES OF BOSTON UNIVERSITY,)
Plaintiff,

vs.

AMAZON.COM, INC.,)

Defendant,

TRUSTEES OF BOSTON UNIVERSITY,)
Plaintiff,

v.

APPLE, INC.)
Defendant.

)
Consolidated Civil Action No.
12-cv-11935-PBS

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Civil Action No. 12-cv-12326-PBS

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Civil Action No. 12-cv-12330-PBS

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Civil Action No. 13-cv-11097-PBS

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Civil Action No. 13-cv-11575-PBS

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TRUSTEES OF BOSTON UNIVERSITY, <i>Plaintiff,</i> vs. SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG LED CO., LTD., SAMSUNG LED AMERICA, INC., SAMSUNG ELECTRO-MECHANICS CO., LTD., and SAMSUNG ELECTRO-MECHANICS AMERICA, INC., <i>Defendants.</i>)	Civil Action No. 13-cv-10659-PBS
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TRUSTEES OF BOSTON UNIVERSITY, <i>Plaintiff,</i> vs. SEOUL SEMICONDUCTOR CO., LTD., SEOUL SEMICONDUCTOR, INC., and SEOUL OPTODEVICE CO., LTD. <i>Defendants.</i>)	Civil Action No. 12-cv-11938-PBS
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TRUSTEES OF BOSTON UNIVERSITY, <i>Plaintiff,</i> vs. ARROW ELECTRONICS, INC., COMPONENTSMAX, INC., NRC ELECTRONICS, INC., NU HORIZONS ELECTRONICS CORP., <i>Defendants</i>)	Civil Action No. 13-cv-11105-PBS
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TRUSTEES OF BOSTON UNIVERSITY, <i>Plaintiff,</i> vs. LG INNOTEK USA, INC., LG ELECTRONICS, INC., And LG ELECTRONICS, USA., INC. <i>Defendant,</i>)	Civil Action No. 13-cv-11831-PBS
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TRUSTEES OF BOSTON UNIVERSITY,)	
<i>Plaintiff,</i>)	
vs.)	Civil Action No. 13-cv-11832-PBS
HEWLETT-PACKARD COMPANY)	
<i>Defendant,</i>)	
_____)	
TRUSTEES OF BOSTON UNIVERSITY,)	
<i>Plaintiff,</i>)	
vs.)	Civil Action No. 13-cv-11963-PBS
VYRIAN, INC.)	
<i>Defendant,</i>)	
_____)	

PLAINTIFF'S OBJECTION TO SCHEDULING ORDER

Pursuant to Rule 2(b) of the Rules for United States Magistrate Judges in the United States District Court for the District of Massachusetts, Plaintiff Trustees of Boston University (“BU” or “Boston University”) respectfully submits this Objection to Scheduling Order seeking modification to Paragraph 5(c) of the Scheduling Order.¹

Boston University seeks one modification to the Scheduling Order. Specifically, the “Fact Discovery” section of the Scheduling Order currently contains the following provision:

Discovery on issues related to damages *or from non-manufacturing defendants* shall not commence until after the Court issues a ruling on claim construction. Within fourteen days of such ruling, the parties shall meet and confer *to discuss a proposed schedule for discovery from non-manufacturing defendants* and to determine whether bifurcation of damages issues is appropriate. The parties shall file a proposed schedule one week thereafter.²

¹ Scheduling Order, Case No. 12-cv-11935-PBS, Dkt. No. 169 at 4 (Oct. 3, 2013) (hereafter “Scheduling Order”).

² *Id.* at 4.

Boston University seeks the following modification:

Discovery on issues solely related to damages ~~or from non-manufacturing defendants~~ shall not commence until after the Court issues a ruling on claim construction. Within fourteen days of such ruling, the parties shall meet and confer ~~to discuss a proposed schedule for discovery from non-manufacturing defendants and to determine whether bifurcation of damages issues is appropriate.~~ The parties shall file a proposed schedule one week thereafter.

The modification eliminates the need to differentiate between “non-manufacturing defendants” and other defendants. The modification enables Boston University to protect its patent rights by allowing discovery of all of the potential parties to the suit. The modification is also necessary to allow Boston University the ability to obtain liability-related, or *infringement* discovery in time to add necessary parties and actually use the discovered information in the consolidated cases.

CONCLUSION

For the reasons argued above and set forth in the accompanying brief, Plaintiff Trustees of Boston University respectfully objects to the Scheduling Order and requests this Court to modify paragraph 5(c) to read as follows:

Discovery on issues solely related to damages ~~or from non-manufacturing defendants~~ shall not commence until after the Court issues a ruling on claim construction. Within fourteen days of such ruling, the parties shall meet and confer ~~to discuss a proposed schedule for discovery from non-manufacturing defendants and to determine whether bifurcation of damages issues is appropriate.~~ The parties shall file a proposed schedule one week thereafter.

Dated: October 8, 2013

Respectfully submitted,

/s/ Michael W. Shore

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**COUNSEL FOR PLAINTIFF
TRUSTEES OF BOSTON UNIVERSITY**

CERTIFICATE OF SERVICE

The undersigned certifies that the forgoing document, which was filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Michael W. Shore
Michael W. Shore

CERTIFICATION UNDER L.R. 7.1.

The undersigned certifies that we conferred with counsel for Defendants regarding this objection. Counsel for Defendants could not agree or disagree to the relief requested, so counsel for Boston University files it as opposed.

/s/ Michael W. Shore
Michael W. Shore